



Direction générale
de l'énergie
et des transports



COMMISSION
EUROPÉENNE

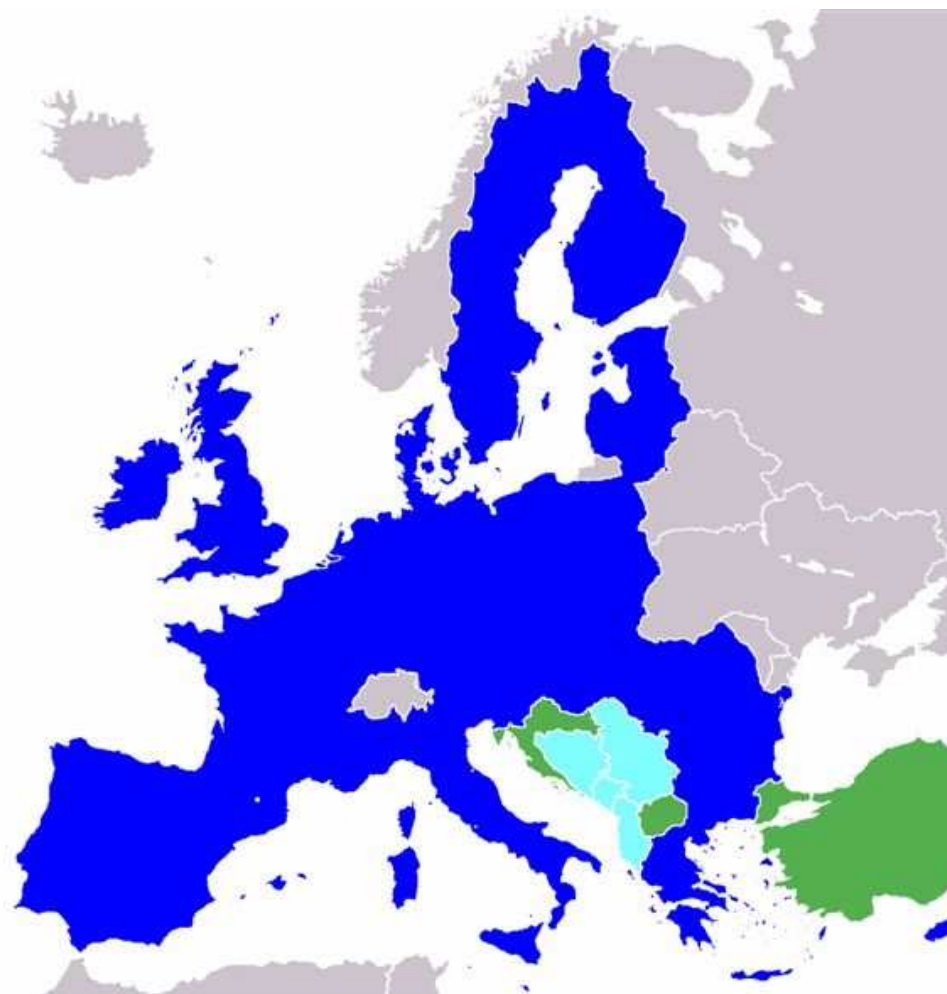
ESTABLISHING REGIONAL ORGANISATIONS FOR CIVIL AVIATION SAFETY

The European experience

Livingstone , 13 – 15 July 2009
Symposium on Regional Aviation Safety Agencies

The EU Today

- 27 Member States
- 490 Million Inhabitants
- One Single Market



● The Joint Aviation Authorities (JAA)

- Established in 1991 on the basis of “**Cyprus Arrangements**”:
 - » an **MoU signed by the NAAs** of all the participating states (not an international agreement)
- JAA was an **associated body** of ECAC (political mandate)
- “**Closed**” on 30 June 2009 (responsibilities taken over by EASA)
- An **example** of a regional grouping of aviation authorities;

● JAA – legal status and organisation

- Established as a **foundation** under the Dutch law (legal seat was in Hoofddorp, the Netherlands):
 - » Necessary for administrative and financial reasons ;
- **Not affecting the international rights and obligations** of the States whose NAAs participated in the JAA;
- “Cyprus Arrangements” defining the **objectives** of cooperation and technical procedures:
 - » to **develop and publish Joint Aviation Requirements** (JARs) in the field of design, manufacture, maintenance and operations;
 - » to **use only one set of technical findings** in a manner acceptable to all participating authorities;

● JAA – legal status and organisation

- **JAA Board** - formed by DGs of the JAA Member States:
 - » general policies and the long-term objectives of JAA
 - » Acceptance of new Members
- **JAA Committee** - composed of one member from each authority (high level safety expert):
 - » administrative and technical implementation of the Cyprus Arrangements, especially adoption of JARs
- **JAA Executive Board** - formed by 7 Members of the JAAC (and one representative from EASA)
 - » management on a continuous basis
- **JAA Foundation Board** - dealt mainly with the legal and financial aspects of JAA as Foundation

● JAA - membership issues

- Membership was **open to members of ECAC**
- **Three stage** membership process:
 - » “**candidate member**” (access to all meetings but no voting rights, no access to mutual recognition recommendations);
 - » “**full member**” (including voting rights)
 - » “**standardized full member**” (benefiting from mutual recognition recommendations)

» In **June 2009** JAA comprised 37 full members and 6 candidate members (with various levels of mutual recognition recommendations)



● JAA – main functions

- **Rulemaking:** development of JARs and JIPs
 - Implementation left to national authorities (national variants possible, no legal obligation to follow JARs)
- **Joint certification** of big projects:
 - “technical findings” made jointly, “legal findings” made by each NAA individually
- **Standardization** (and “mutual recognition” recommendations):
 - More uniform implementation of JARs, but
 - No legal obligation to follow the “recommendations”

● “JAA” model – advantages

- Very pragmatic approach (working at the expert level)
- No need for an international treaty
- Relatively light structure
- Allowing to develop common standards and to pool resources
- Allowing to support uniform implementation (standardization)
- Reducing the costs of the NAAs, and allowing to build up more uniform experience (joint certification and standardization teams)
- Contributing to level playing field, reduction of costs for the industry and facilitating circulation of goods and services:
 - more uniform standards, fewer technical checks, easier recognition of approvals
- Could be a “first step”

● “JAA” model – weak points

- Need for transposition of regulations into national legal systems
- Existence of “national variants” of regulations still possible
- Decision making process based on consensus can be lengthy
- Mutual recognition not automatic
- Lack of a central enforcement body
- Lack of independence from competing national interests

● Towards a central European aviation body

- 1992, creation of the single aviation market in the EU:
 - » free market access for the Community airlines
 - » need for uniform safety standards
- Adoption of Regulation 3922/91:
 - » The Commission empowered to transpose JARs into Community law, and ensure their uniform application;
 - » Lack of resources in the Commission unable to effectively discharge these tasks
 - » Need for an effective, independent “technical agent”

● The EC institutional system

- European Community: a supranational international organisation
- EC Treaty of 1957, as subsequently amended
- Main Community institutions (Council, Parliament, Commission, Court of Justice)
- Council and Parliament acting as a legislator
- Commission as an executive body (“Guardian of the Treaties”)
- Court of Justice: ultimate judicial instance in the Community

● Establishment of EASA – “behind the scenes”

- In 1998 the Council grants a mandate to the Commission to negotiate an international agreement with the non-EU JAA states:
 - » The draft “EASA Convention” is prepared
 - » Objective: to create a body which would integrate the national systems of the MS, ensure uniform level of safety and free flow of aeronautical products
 - » EASA to adopt safety rules in a directly applicable form (scope covering IA, CAW, OPS, FCL + ATM/ANS and ARD at the latter stage)
 - » EASA to certify aeronautical products
 - » EASA to verify the work of the MS

● Establishment of EASA – “behind the scenes”

- Ratification of the “EASA Convention” necessary by all the MS
- The Commission to consult the European Court of Justice
- No guarantee that the Convention will be ratified (involvement also of non-EU countries)
- Difficult to ensure parliamentary control over a body created by an international treaty (responsibility towards the European citizen)
- Need for an alternative solution

● What is a European agency ?

- EU creates various organizations to assist the Commission in discharging its executive function
- Executive agencies:
 - » Created on the basis of the EC « framework regulation » on Agencies;
 - » Tasks related to management of Community programmes (limited duration);
 - » Located close to Commission headquarters;
 - » Managed directly by the Commission;
- Regulatory agencies (“de-centralised agencies”)
 - » Created on the basis of an “own” regulation
 - » Spread around Europe
 - » Independent bodies, with own legal personality

● Towards EASA as a Community Agency

- Some agencies implement EC law and provide services for industry on a cost recovery basis (European Agency for Evaluation of Medicinal Products, Community Plant Variety Office etc.)
- Agencies cannot adopt legal acts of general application or have powers involving high degree of discretion (“*Meroni* “case)
- Some of them enjoy decision making powers in individual cases (such as CPVO)
- An alternative to “EASA Convention”

EASA as a part of the EU safety oversight system for civil aviation

- EASA established as a Community Agency in 2002 on the basis of a Regulation
- To assist the Commission in implementation of the Community safety legislation (independent technical agent)
- Responsibilities shared between the MS, EASA and Commission
- Within the scope of its competence, EASA carries out on behalf of the MS, functions and tasks, ascribed to them by the Chicago Convention
- EASA subject to ICAO audits in the areas where it acts on behalf of the MS

● **Future of the EC regional safety oversight system**

- Competences of EASA to be extended to safety aspects of aerodrome operations and ATM/ANS
- Relationship with Eurocontrol
- Other areas: accident investigation ?



● For more information :

“Air Transport Portal of the European Commission”

- http://ec.europa.eu/transport/air_portal/index_en.htm
- <http://www.easa.eu.int/home/index.html>
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